Calendar No. 292

100TH CONGRESS *1st Session*	SENATE	REPORT 100-143

MALCOLM BALDRIGE NATIONAL QUALITY IMPROVEMENT ACT OF 1987

Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

OF THE

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ON

H.R. 812

AUGUST 4, 1987.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1987

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Calendar No. 292

100TH CONGRESS
1st Session

SENATE

REPORT
100-143

MALCOLM BALDRIGE NATIONAL QUALITY IMPROVEMENT ACT OF 1987

AUGUST 4, 1987.—Ordered to be printed

Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany H.R. 812]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (H.R. 812) to amend the Stevenson-Wydler Technology Innovation Act of 1980 to establish a National Quality Award, with the objective of encouraging American business and other organizations to practice effective quality control in the provision of their goods and services, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and an amendment to the title and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of the bill is to establish a Malcolm Baldrige National Quality Award program, in honor of the late Secretary of Commerce, Malcolm Baldrige, with the objective of encouraging American business and other organizations to improve the quality of their goods and services.

BACKGROUND AND NEEDS

Until a few decades ago, the United States was a world leader in quality, and that leadership provided us with a broad market for our products both domestically and overseas. In recent years, however, that leadership role has been challenged strongly by foreign competition.

American business and industry are beginning to understand that poor quality results in lower sales, and that improved quality

of goods and services goes hand in hand with improved productivity, lower costs, and increased profitability. Commitment to excellence in manufacturing and services through strategic planning for quality and quality improvement programs is becoming more and more essential to the well-being of our Nation's economy and our ability to compete effectively in the global marketplace. This emphasis on excellence, good management practices, and high quality in manufactured products can be observed not only in Japan but in other parts of the Pacific Basin, such as Taiwan, Singapore, and South Korea.

To be successful, quality improvement programs must be management-led and customer-oriented, and this may require fundamental changes in the way companies and agencies do business. In an effort to regain the quality edge in many fields we have lost to Japan and several European nations, many experts have called for the creation of a national quality award to stimulate quality management in American industries. Such an award would parallel the Deming Prize awarded annually in Japan to the company which does the best job in quality throughout its organization. Japanese industry competes fiercely for this award. Companies know the average Japanese citizen pays attention to who wins and equates the award with the highest quality of products. Ironically, the Japanese prize was set up by an American, Dr. Edwards Deming, who was a major participant in the effort to get Japanese industry back on its feet after World War II. Dr. Joseph Juran and Dr. Deming began promoting a vision of quality manufacturing that would change the world. Unfortunately, many companies in the United States did not stress this approach while the Japanese accepted the Juran/Deming emphasis on quality products and management.

Other countries are following Japan's lead. Australia has had a J.M. Juran Award since 1975; Margaret Thatcher has announced the British National Quality Campaign and the British Quality Award; and the French have instituted the Industrial Quality Prize.

MALCOLM BALDRIGE

Secretary of Commerce Malcolm Baldrige took a personal interest in H.R. 812, and helped to write the version which passed the House of Representatives on June 8, 1987.

The Secretary's interest in H.R. 812 reflected his lifelong commitment, as both a successful businessman and a respected public servant, to encourage improved quality and productivity in American industry. He saw quality and performance as the keys to this country's prosperity and long-term strength. He had a lifetime of interest and experience in manufacturing. Prior to joining the Cabinet, Mr. Baldrige served as chairman and chief executive officer of Scoville, Inc., which then operated 81 manufacturing plants in the United States and 22 other countries around the world. As Secretary of Commerce, he supported programs in the Department of Commerce to help American manufacturers.

Mr. Baldrige served as Secretary of Commerce from January 20, 1981, until his untimely death on July 25, 1987. In recognition of his many important contributions to American industry, the re-

spect and affection in which he was held, and the personal role he played in drafting H.R. 812, the Committee believes it is fitting and appropriate to name this legislation and its national quality award program in honor of Malcolm Baldrige.

Legislative History

Congressman Walgren and Boehlert introduced H.R. 812 in the House of Representatives on January 28, 1987, and the bill was referred to the House Committee on Science, Space, and Technology. The House Subcommittee on Science, Research, and Technology held a hearing on March 4, 1987. The House of Representatives passed a revised version of H.R. 812 on June 8, 1987, which was referred to the Senate Commerce Committee.

Senator Bob Graham introduced a companion bill, S. 1251, in the Senate on May 21, 1987, which was also referred to the Commerce Committee. Senators Chiles, Danforth, Riegle, and Rockefeller were original cosponsors.

On July 28, 1987, in open executive session, the Committee considered an amendment in the nature of a substitute to H.R. 812. That substitute included provisions naming the legislation and its national quality award program in honor of Secretary Baldrige. The Committee ordered H.R. 812, as amended by the substitute, reported favorably without objection.

Summary of Major Provisions

As reported, H.R. 812 would:

1. Amend the Stevenson-Wydler Technology Innovation Act of 1980 (Public Law 96–480) by adding a new section which establishes the Malcolm Baldrige National Quality Award.

2. Direct the President (on the basis of recommendations received from the Department of Commerce), or the Secretary of Commerce (Secretary), to make the award periodically to companies and other organizations which in the judgment of the President or Secretary have significantly benefited the economic or social well-being of the United States through improvements in the quality of their goods or services.

3. Provide that organizations may qualify for an award by applying to the Director of the Commerce Department's National Bureau of Standards (NBS) and by permitting a rigorous evaluation of its quality programs. The Director shall elect one or more non-profit organizations familiar with quality management techniques to perform the evaluations.

4. Direct NBS to provide information about successful quality improvement strategies and programs of the award-winning participants.

5. As no Federal funds are authorized for the program, provide that the Secretary may seek and accept gifts, and if additional sums are needed to cover the full cost of the program, the Secretary shall impose fees upon the organizations applying for the awards.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 31, 1987.

Hon. ERNEST F. HOLLINGS,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 812, the Malcolm Baldrige National Quality Improvement Act of 1987, as ordered reported by the Senate Committee on Commerce, Science, and Transportation, July 28, 1987.

Based on information provided by the Department of Commerce, CBO estimates that enacting H.R. 812 would result in no significant additional costs to the federal government. The bill would establish the Malcolm Baldrige National Quality Improvement Award for companies demonstrating substantial quality improvement. The entire award program, including administrative costs, would be funded by private contributions, or by a fee charged to applicants for the award.

No costs would be incurred by state or local governments from enacting this bill.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

EDWARD M. GRAMLICH,
Acting Director.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported.

NUMBER OF PERSONS COVERED

This legislation establishes a national quality award program, to be administered by the Secretary. The legislation anticipates that a number of businesses and other organizations will apply for awards, but will do so voluntarily. To be considered for an award, each such applicant will have to permit a rigorous evaluation of the way in which its business and other operations have contributed to improvements in the quality of goods and services. Again, however, any application and associated evaluation will be strictly voluntary.

ECONOMIC IMPACT

The legislation authorizes no new Federal spending. The legislation anticipates that the Malcolm Baldrige National Quality Award

Program will be funded by donations and, if donations alone do not cover full program costs, by fees upon the organizations voluntarily applying for the awards.

PRIVACY

Private parties that choose to apply for awards will have to allow NBS or its contractors to audit their business and other operations as they relate to the production of goods and services. These will be voluntary arrangements, however.

The legislation provides that all organizations participating in the program shall receive complete results of their audits as well as detailed explanations of all suggestions for improvements.

The legislation further provides that the Director of NBS shall provide information about the awards and successful quality improvement strategies and programs of the award-winning participants to all participants and other appropriate groups. The Committee does not intend that this information include any proprietary data which a business does not wish to share with other organizations.

PAPERWORK

The legislation directs the Secretary to prepare and submit to the President and the Congress, within 3 years after the date of enactment of this legislation, a report on the progress, findings, and conclusions of activities conducted pursuant to this legislation, along with recommendations for possible modifications thereof. For each business that applies for an award, there will be a small increase in paperwork associated with the application, but such additional paperwork is voluntary under legislation.

SECTION-BY-SECTION ANALYSIS

SECTION 1.—SHORT TITLE

This section states the short title of the bill, the "Malcolm Baldrige National Quality Improvement Act of 1987".

SECTION 2.—FINDINGS AND PURPOSES

This section discusses Congress's findings and purposes for this legislation. Subsection (a) finds that the leadership of the United States in product and process quality has been challenged strongly by foreign competition; that American business and industry are beginning to understand that poor quality leads to lower sales and that improved quality of goods and services goes hand in hand with improved productivity, lower costs, and increased profitability; that strategic planning for quality and quality improvement programs are becoming more and more essential to the well-being of our economy; that improved management understanding, worker involvement, and greater emphasis on statistical process control can lead to dramatic improvements in the cost and quality of manufactured products; that the concept of quality management is directly applicable to small and large, service and manufacturing, public and private sector organizations; that quality improvement programs must be management-led and customer-oriented; that sever-

al major industrial nations have successfully coupled quality audits with national awards giving special recognition to those enterprises the audits identify as the very best; and that a national quality award program of this kind in the United States would help improve quality and productivity by helping to stimulate American companies to improve quality and productivity, recognizing those organizations that improve the quality of their goods, establishing guidelines and criteria to be used by other companies and organizations for evaluating their quality improvement efforts, and providing guidance for other American organizations on how to manage for high quality.

Subsection (b) states that the purpose of this act is to establish and conduct a national quality improvement program by (1) giving awards to companies that practice effective quality control and thereby improve their products and services, and (2) disseminating information about successful strategies and programs for improving quality and effectiveness.

SECTION 3.—ESTABLISHMENT OF THE MALCOLM BALDRIGE NATIONAL QUALITY AWARD PROGRAM

Subsection (a) amends the Stevenson-Wydler Technology Innovation Act of 1980 by inserting a new section 16 entitled "Malcolm Baldrige National Quality Award."

This new section sets up a national quality award program. This award will be evidenced by a medal inscribed with the words "Malcolm Baldrige National Quality Award" and "The Quest for Excellence." The Secretary may prescribe the medal's design and the materials of which it is made. The President (on the recommendation of the Secretary), or the Secretary, will make the award to companies and other organizations that have improved the quality of their products and deserve recognition. The awards are to be made in the categories of small business, companies or their subsidiaries, and service companies. The Secretary may establish as many subcategories within each category as the Secretary determines to be appropriate. In any one year, no more than two awards may be given under any one subcategory.

The new section also describes the process for receiving the award: application, evaluation, and compliance with the Secretary's requirements and specifications. The Director of NBS shall rely upon evaluation of a company performed by a competent board of examiners which will visit the site of the organization and verify the improvements. The results of the evaluations should include only non-proprietary information unless the participating firm consents otherwise. The Director of NBS will publicize the results of this work as well as the improvement strategies for quality and productivity. The Secretary is authorized to seek and accept gifts to carry out this program, and, if additional sums are needed, to impose fees on the organizations applying for the award. After the program has been in effect for 3 years, the Secretary is required to report on its progress to the President and the Congress.

Subsection (b) of section 3 is a conforming amendment to the Stevenson-Wydler Act.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

THE STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980

SECTION 9 OF THAT ACT

SEC. 9. ADMINISTRATIVE ARRANGEMENTS.

(a) — (c) * * *

(d) COOPERATIVE EFFORTS.—The Secretary and the National Science Foundation shall, on continuing basis, provide each other the opportunity to comment on any proposed program of activity under section 6, 8, 10, 14, [or 16] *16, or 17* of this Act before funds are committed to such program in order to mount complementary efforts and avoid duplication.

SECTION 15 OF THAT ACT

SEC. 15. NATIONAL TECHNOLOGY MEDAL.

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SEC. 16. MALCOLM BALDRIGE NATIONAL QUALITY AWARD.

(a) ESTABLISHMENT.—There is hereby established the Malcolm Baldrige National Quality Award, which shall be evidenced by a medal bearing the inscriptions "Malcolm Baldrige National Quality Award" and "The Quest for Excellence". The medal shall be of such design and materials and bear such additional inscriptions as the Secretary may prescribe.

(b) MAKING AND PRESENTATION OF AWARD.—(1) The President (on the basis of recommendations received from the Secretary), or the Secretary, shall periodically make the award to companies and other organizations which in the judgment of the President or the Secretary have substantially benefited the economic or social well-being of the United States through improvements in the quality of their goods or services resulting from the effective practice of quality management, and which as a consequence are deserving of special recognition.

(2) The presentation of the award shall be made by the President or the Secretary with such ceremonies as the President or the Secretary may deem proper.

(3) An organization to which an award is made under this section, and which agrees to help other American organizations improve their quality management, may publicize its receipt of such award and use the award in its advertising, but it shall be ineligible to receive another such award in the same category for a period of 5 years.

(c) CATEGORIES IN WHICH AWARD MAY BE GIVEN.—(1) Subject to paragraph (2), separate awards shall be made to qualifying organizations in each of the following categories—

(A) small businesses;

(B) companies or their subsidiaries; and

(C) companies which primarily provide services.

(2) The Secretary may at any time expand, subdivide, or otherwise modify the list of categories within which awards may be made as initially in effect under paragraph (1), and may establish separate awards for other organizations including units of government, upon a determination that the objectives of this section would be better served thereby; except that any such expansion, subdivision, modification, or establishment shall not be effective unless and until the Secretary has submitted a detailed description thereof to the Congress and a period of 30 days has elapsed since that submission.

(3) Not more than two awards may be made within any subcategory in any year (and no award shall be made within any category if there are no qualifying enterprises in that category or subcategory).

(d) CRITERIA FOR QUALIFICATION.—(1) An organization may qualify for an award under this section only if it—

(A) applies to the Director of the National Bureau of Standards, in writing, for the award,

(B) permits a rigorous evaluation of the way in which its business and other operations have contributed to improvements in the quality of goods and services, and

(C) meets such requirements and specifications as the Secretary, after receiving recommendations from the Board of Overseers established under paragraph (2)(B) and the Director of the National Bureau of Standards, determines to be appropriate to achieve the objectives of this section.

In applying the provisions of subparagraph (C) with respect to any organization, the Director of the National Bureau of Standards shall rely upon an intensive evaluation by a competent board of examiners which shall review the evidence submitted by the organization and, through a site visit, verify the accuracy of the quality improvements claimed. The examination should encompass all aspects of the organization's current practice of quality management, as well as the organization's provision for quality management in its future goals. The award shall be given only to organizations which have made outstanding improvements in the quality of their goods or services (or both) and which demonstrate effective quality management through the training and involvement of all levels of personnel in quality improvement.

(2)(A) The Director of the National Bureau of Standards shall, under appropriate contractual arrangements, carry out the Director's responsibilities under subparagraphs (A) and (B) of paragraph (1) through one or more broad-based nonprofit entities which are leaders in the field of quality management and which have a history of service to society.

(B) The Secretary shall appoint a board of overseers for the award, consisting of at least five persons selected for their preeminence in the field of quality management. This board shall meet annually to review the work of the contractor or contractors and make such suggestions for the improvement of the award process as they deem necessary. The board shall report the results of the award activities to the Director of the National Bureau of Standard each year, along with its recommendations for improvement of the process.

(e) INFORMATION AND TECHNOLOGY TRANSFER PROGRAM.—The Director of the National Bureau of Standards shall ensure that all program participants receive the complete results of their audits as well as detailed explanations of all suggestions for improvements. The Director shall also provide information about the awards and the successful quality improvement strategies and programs of the award-winning participants to all participants and other appropriate groups.

(f) FUNDING.—The Secretary is authorized to seek and accept gifts from public and private sources to carry out the program under this section. If additional sums are needed to cover the full cost of the program, the Secretary shall impose fees upon the organizations applying for the award in amounts sufficient to provide such additional sums.

(g) REPORT.—The Secretary shall prepare and submit to the President and the Congress, within 3 years after the date of the enactment of this section, a report on the progress, findings, and conclusions of activities conducted pursuant to this section along with recommendations for possible modifications thereof.

SEC. [16] *17.* PERSONNEL EXCHANGES.

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SEC. [17] *18.* AUTHORIZATION OF APPROPRIATIONS.

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SEC. [18] *19.* SPENDING AUTHORITY.

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Calendar No. 297

100TH CONGRESS *1st Session*	SENATE	REPORT 100-146

AVIATION CRIMINAL PENALTIES LEGISLATION

Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

OF THE

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ON

H.R. 1163

AUGUST 7 (legislative day, AUGUST 5), 1987.—Ordered to be printed

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COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ERNEST F. HOLLINGS, South Carolina, *Chairman*

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Calendar No. 297

100TH CONGRESS
1st Session

SENATE

REPORT
100-146

AVIATION CRIMINAL PENALTIES LEGISLATION

AUGUST 7 (legislative day, AUGUST 5), 1987.—Ordered to be printed

Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany H.R. 1163]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (H.R. 1163) to amend section 902(e) of the Federal Aviation Act of 1958 to revise criminal penalties relating to certain aviation reports and records offenses, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The primary purpose of H.R. 1163 is to establish criminal penalties for violations of Federal Aviation Administration (FAA) rules and regulations which require airlines and their employees to maintain and file certain safety-related reports and records.

BACKGROUND AND NEEDS

The FAA requires each commercial airline to maintain records on a number of operational and training activities, including pilot training, maintenance, flight time, weight and balance calculation, hazardous material training, and the processing and certification of flight crews. Airlines are also required to file reports with the FAA on the results of aircraft inspections along with reports concerning the detection and correction of any aircraft defects. Under current law, air carriers are subject to both criminal and civil penalties for violating these rules. Section 902(e) of the Federal Aviation Act of 1958 makes it a misdemeanor punishable by a fine of not less than $100 or more than $5,000 for the failure or refusal to maintain or file a safety-related report required by the FAA.

91-010

A number of factors have contributed to the need for increased criminal penalties for violating FAA safety-related record-keeping and reporting requirements. The FAA system of air carrier surveillance involves a network of safety inspectors located throughout the country and assigned to various airlines. These safety inspectors conduct periodic inspections and investigations of the procedures and practices of each airline. However, for the most part, the FAA must rely on records maintained by the airline and reports filed with the agency.

This time-honored reliance upon self-compliance has been tested by deregulation and the competitive realities of reducing costs to maintain airline profitability. There is no assurance that certain overhead costs, such as preventive maintenance, will be covered by an airline through passenger ticket prices. Airlines may have an incentive either to avoid disclosure of certain negative safety information or, in extreme cases, to falsify reports in which such information is required. This has become increasingly evident as FAA inspectors, in special in-depth carrier-by-carrier inspections, have found significant numbers of record-keeping and reporting violations.

Furthermore, the FAA's ability to enforce accurate reporting of safety defects and maintenance practices through the threat of criminal fines has been further restricted by three decades of inflation. The amounts involved under current law are in many cases no longer a deterrent, and can be considered a relatively minor cost of doing business by a violator.

H.R. 1163 is designed to re-establish the deterrent value of the criminal penalty structure of fines. The bill does this by imposing harsher penalties on violators of FAA safety-related record-keeping and reporting requirements.

Legislative History

H.R. 1163 was introduced on February 19, 1987 by Representative Dan Glickman. It was reported by the House Committees on the Judiciary and Public Works and Transportation. The bill was passed, without objection, by the House of Representatives on June 22, 1987, and subsequently referred to Senate Commerce Committee.

On July 28, 1987, the Commerce Committee met in open executive session to consider H.R. 1163. There was limited debate and no amendments were offered to the bill. Then, without objection, H.R. 1163 was ordered reported.

Summary of Major Provisions

H.R. 1163 has two major provisions.

(1) It would establish fines of not more than $5,000 in the case of an individual and not more than $10,000 in the case of an airline for the failure to file or falsification of a report, account, record, or memorandum required by FAA safety-related rules or regulations.

(2) Any air carrier or employee who intentionally falsifies or conceals a material fact, or invites reliance on a false statement or representation concerning a material fact in a report, account, record, or memorandum required by FAA safety-related rules or

regulations would be punishable by fine, imprisonment of up to 5 years, or both.

Estimated Costs

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office.

U.S. Congress,
Congressional Budget Office,
Washington, DC, July 29, 1987.

Hon. Ernest F. Hollings,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed H.R. 1163, an act to amend section 902(e) of the Federal Aviation Act of 1958 to revise criminal penalties relating to certain aviation reports and records offenses, as ordered reported by the Senate Committee on Commerce, Science and Transportation, July 28, 1987. We estimate that enactment of the bill would result in no significant cost to the federal government and in no cost to state and local governments.

Currently, if air carriers or responsible individuals associated with them fail to file required reports or intentionally falsify records, such violations are misdemeanors punishable by a fine of not less than $100 and not more than $5,000. H.R. 1163 would make these violations felonies and increase the fine to not more than $5,000 in the case of an individual, or $10,000 in the case of a person other than an individual. Certain reporting violations would be subject to fines, imprisonment of not more than five years, or both.

Enactment of this legislation may result in greater revenues resulting from increased fines, and could also result in additional costs for the incarceration of individuals who currently are subject only to fines. However, such revenues or costs are not likely to be significant, because prosecutions under this statute are not likely to be frequent.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

Edward M. Gramlich,
Acting Director.

Regulatory Impact Statement

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported.

NUMBER OF PERSONS COVERED

This legislation strengthens the penalties for actions related to reports already required by the FAA. As such, the number of people and businesses affected by this legislation should not change from those covered by current law.

ECONOMIC IMPACT

Only air carriers not complying with FAA safety-related reporting requirements will be affected by this legislation. The only economic impact caused by this bill will result from the imposition of fines for noncompliance with those reporting requirements. No other economic impact will occur under this bill.

PRIVACY

None of the provisions of this legislation should affect the personal privacy of individuals involved.

PAPERWORK

Because this bill is designed to strengthen the enforcement mechanisms for complying with FAA rules and regulations relating to reporting and maintaining safety-related records and does not require any additional reporting or record-keeping, it should not result in additional paperwork.

SECTION-BY-SECTION ANALYSIS

SECTION 1

Under the one section of this legislation, which amends section 902(e) of the Federal Aviation Act of 1958, relating to Failure to File Reports, and the Falsification of Records, whenever an air carrier, or an officer, agent, employee, or representative of an air carrier, intentionally (1) fails to make a report or keep an account, record, or memorandum; (2) falsifies, mutilates, or alters a report, account, record, or memorandum; or (3) files a false report, account, record, or memorandum, they shall be fined not more than $5,000 in the case of an individual and not more than $10,000 in the case of a person other than an individual. The Committee believes that the financial exposure posed by doubling the current maximum penalty for violating the Act will provide the necessary incentive to ensure accurate record-keeping, which in turn will result in increased compliance with FAA safety rules and regulations.

Whenever an air carrier, or an officer, agent, employee, or representative of an air carrier, intentionally (1) falsifies or conceals a material fact; or (2) invites reliance on a false statement or representation concerning a material fact in a report, account, record, or memorandum under Title VI of the Federal Aviation Act of 1958 relating to Safety Regulation of Civil Aeronautics, this section requires that they be fined, imprisoned not more than 5 years, or both. The Committee believes that a potential term of imprisonment has a two-fold purpose of creating a substantial deterrent for violating this section, and of emphasizing the threat to safety that

may result from the intentional falsification or concealment of a material fact relating to a safety report.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman).

FEDERAL AVIATION ACT OF 1958

SEC. 901. (a)-(d) * * *

[FAILURE TO FILE REPORTS; FALSIFICATION OF RECORDS

[(e) Any air carrier, or any officer, agent, employee, or representative thereof, who shall, knowingly and willfully, fail or refuse to make a report to the Board or Administrator as required by this Act, or to keep or preserve accounts, records, and memoranda in the form and manner prescribed or approved by the Board or Administrator, or shall, knowingly, and willfully, falsify, mutilate, or alter any such report, account, record, or memorandum, or shall knowingly and willfully file any false report, account, record, or memorandum, shall be deemed guilty of a misdemeanor and, upon conviction thereof, be subject for each offense to a fine or not less than $100 and not more than $5,000.]

FAILURE TO FILE REPORTS; FALSIFICATION OF RECORDS

(e)(1) Whoever, being an air carrier, or an officer, agent, employee, or representative of an air carrier, intentionally—

(A) fails to make a report or to keep an account, record, or memorandum;

(B) falsifies, mutilates, or alters a report, account, record, or memorandum; or

(C) files a false report, account, record, or memorandum;

under this Act, shall be fined not more than $5,000 in the case of an individual and not more than $10,000 in the case of a person other than an individual.

(2) Whoever, being an air carrier, or an officer, agent, employee, or representative of an air carrier, intentionally—

(A) falsifies or conceals a material fact; or

(B) invites reliance on a false statement or representation concerning a material fact;

in a report, account, record, or memorandum under title VI of this Act shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both.

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